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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,770	12/20/2001	Kevin S. Dombrowski	US 010681	4020

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

QUARTERMAN, KEVIN J

ART UNIT

PAPER NUMBER

2879

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,770

Applicant(s)

DOMBROWSKI ET AL.

Examiner

Kevin Quarterman

Art Unit

2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(e). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 and 6-8 is/are allowed.
- 6) ☒ Claim(s) 4,5 and 10-12 is/are rejected.
- 7) ☒ Claim(s) 9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 02 August 2004 has been entered.

Claim Objections

2. Claims 9 and 10 are objected to because of the use of more than one capital letter in the body of the claims (See MPEP § 608.01(m)). Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 4-5 and 10-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

5. Applicant presents new independent claim 10 citing the protective sleeve comprising "more than a trace amount of neodymium." Applicant's original disclosure does not mention any particular amount of neodymium. Thus, this citation is deemed new matter, since it was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Due to their dependency upon independent claim 10, claims 4-5 and 11-12 are also rejected for failing to comply with the written description requirement.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 4-5 and 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. The term "trace amount" in claim 10 is a relative term which renders the claim indefinite. The term "trace amount" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The claimed limitation of the protective sleeve comprising more than a *trace amount* of neodymium is rendered indefinite by use of the term "trace amount" in the claim. Due to their dependency upon independent claim 10, claims 4-5 and 11-12 are also deemed indefinite.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4, 10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (US 6157131) in view of Rajaram (US 6136736).

11. Regarding independent claim 10, Figure 1 of Nelson shows a lamp comprising a light source (10) formed by a metal halide arc tube; a protective sleeve (16) around the light source, the sleeve having a pair of opposed ends; a metal frame (24, 32) supporting the sleeve; and a glass envelope (44) surrounding the light source, the protective sleeve, and the metal frame.

12. Nelson discloses the claimed limitations above but fails to exemplify the protective sleeve comprising more than a trace amount of neodymium.

13. Rajaram teaches that it is known in the art to provide lamps with envelopes having a glass composition including quartz with neodymium (Abstract). Rajaram discloses that this glass composition with neodymium may be suitable for any type of lamp envelope (col. 6, ln. 15-19). Rajaram also discloses that color and other functional properties are optimized through use of this glass composition (col. 5, ln. 14-16; col. 10, ln. 39-42).

14. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the quartz sleeve of Nelson with more than

a trace amount of neodymium, as taught by Rajaram, for improving lumen output of the lamp, since it is within the general skill of a worker in the art to select a known material based on its suitability for its intended use (MPEP § 2144.07).

15. Regarding claim 4, Nelson discloses the protective sleeve being a transparent, high-temperature material selected from quartz and Vycor (col. 2, ln. 12).

16. Regarding claim 12, Figure 1 of Nelson shows the light source as a ceramic metal halide arc tube (col. 1, ln. 55) having a pair of opposed leads (12) surrounded by the protective sleeve; the tubular sleeve having an upper end (18), and oppositely facing a lower end (20), and an internal surface (22) extending between the ends; and the sleeve being supported by a frame member (24); the lamp further comprising an insulating member (46) fixed between the frame member above the upper end of the sleeve, whereby the light source, the frame members, the sleeve, and the insulating member form a rigid self-supporting structure.

Allowable Subject Matter

17. Claims 1-3 and 6-8 are allowed.

18. The statement of reasons for the allowance of claims 1-3 and 6-8 can be found in the Notice of Allowance mailed on 06 May 2004.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Quarterman whose telephone number is (571) 272-2461. The examiner can normally be reached on M-TH (7-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (571) 272-2457. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin Quarterman
Examiner
Art Unit 2879

kq 
21 February 2005


Joseph Williams
Primary Examiner
Art Unit 2879